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**STATE OF HAWAII  
DEPARTMENT OF LAND AND NATURAL RESOURCES**

STATE HISTORIC PRESERVATION DIVISION  
601 KAMOKILA BOULEVARD, ROOM 555  
KAPOLEI, HAWAII 96707

**OAHU ISLAND BURIAL COUNCIL MEETING  
MINUTES**

**DATE: WEDNESDAY, JANUARY 11, 2006**  
**TIME: 10:00 A.M.**  
**PLACE: LEIOPAPA A KAMEHAMEHA BUILDING**  
**235 S. BERETANIA ST., 14<sup>TH</sup> FL. CONFERENCE ROOM**  
**HONOLULU, HAWAII 96813**

**ATTENDANCE:**

**Members:** Mark Kawika McKeague, Vice-Chair  
Carolyn "Kehau" Abad  
Van Horn Diamond  
Charles Ehrhorn  
Alice Greenwood  
Andrew Keliikoa  
Kalei Kini  
Kehaulani Kruse  
Lynette "Nettie" Tiffany

**Absent:** Cy Bridges (Excused)  
Analu Josephides (Excused)  
Aaron Mahi (Excused)  
Jace McQuivey, Chair (Excused)  
Linda Kaleo Paik (Excused)

**Staff:** David Brown, Archaeology Branch Chief  
Piilani Chang, Oahu Cultural Historian  
Vince Kanemoto, Deputy Attorney General  
Chris Monahan, Oahu Lead Archaeologist  
Susan Yanos, Secretary

**Guests:** Kawehi Yim  
KeAloha Kuhea  
Glenn Yim  
Wesley Inouye  
Scott Brazwell  
Jim Brecker  
Amy Voss  
Joseph Kennedy  
Paulette Kaleikini  
Jean Rasor  
Doug Borthwick

## **I. CALL TO ORDER & ROLL CALL**

The meeting was called to order by Vice-Chair McKeague at 10:20 am. Verbal roll call was taken by Yanos. The majority of the members were present and quorum was established. Jace McQuivey, Aaron Mahi, Cy Bridges, Linda Kaleo Paik, and Analu Josephides had excused absences.

## **II. INTRODUCTION OF COUNCIL MEMBERS AND SHPD STAFF**

Council members and SHPD Staff introduced themselves. Greenwood said a pule.

## **III. OPENING REMARKS**

Vice-Chair McKeague opened the meeting by explaining the Chair's absence. McKeague thanked the public for taking the time to attend this meeting and explained that the council did establish an oral testimony policy that limits public testimony to four minutes for each agenda item, which is subject to extension by the council.

## **IV. APPROVAL OF OCTOBER 12, 2005 MEETING MINUTES**

McKeague asked for any comments regarding the October 12, 2005 meeting minutes. McKeague stated that the minutes were very thorough and concise and appreciated the effort put into the minutes.

Correction by Greenwood; Page 10, Change "Guest Halealoha Edward Ayau" to "Guest Edward Halealoha Ayau."

Correction by Diamond; Page 3, Paragraph 5, Line 3: Change "...the chair serve for five years" to "...the chair serve for four years."

Correction by Diamond; Page 8, Paragraph 3, Line 10: change spelling of "aggrieved" to "aggrieved."

**Motion to accept the minutes with modifications was made and seconded.**  
**(Tiffany/Kruse)**

**VOTE: ALL IN FAVOR. Motion carries.**

McKeague explained that the council is approving the October minutes this month because the council has not met for two months due to a landowner representative vacancy on the council. McKeague thanked and commended the department for their efforts to provide the Governor's Office with names of potential candidates to fill the empty landowner representative seat. Carolyn "Kehau" Abad has been appointed to the vacant seat.

Kruse asked if there were more open seats on the council to fill. Chang explained that three council members' terms will be expiring in June 2006. Chang went on to say that the Department is always accepting applications.

## **V. BUSINESS**

### **A. Burial Treatment Plan for the Property Owned by Mr. Larry Latham in Kaunala Ahupuaa, Koolauloa District, Island of Oahu [TMK: 5-8-06: 46]**

Mr. Joe Kennedy gave a brief summary of the burial treatment plan on behalf of Mr. Larry Latham. There was a previously identified individual found during inventory level survey. He stated that he has come before the council in the past representing the same case and at that time the council recommended that the individual should remain in situ. The landowner wanted to conform to the council's recommendation, which resulted in a burial treatment plan. The temporary buffer zone is 30-feet and the permanent buffer zone has been reduced to approximately 10-feet.

Greenwood commented that the plan was well-written and thanked Kennedy for stating in the plan that the burial would be documented in the deed.

Ehrhorn asked if the owner's house was still under construction. Kennedy said that he does not believe so.

**Motion to recommend that the department approve the burial treatment plan. (Ehrhorn/McKeague)**

**VOTE: ALL IN FAVOR. Motion carries.**

Kruse commented that this burial treatment plan is a good template and by notating that the burial be a part of the deed, it will help protect the burial in perpetuity. Kennedy thanked the council for their comments.

Kuhea stated that his 'ohana is putting in a cultural claim for Waialua and Malaekahana. He said that they were claiming Keohokalole in Malaekahana. He expressed his opinion that former SHPD staff Kana'i Kapeliela possibly discriminated against his claim previously and asked the council to hold off on making any decisions regarding this so that he can resubmit his claim to the department where he hopes that the new staff will review his claim again. He expressed his opinion that Kapeliela did unethical things and is going to be exposed by the 'iwi kupuna. He expressed his concern as to why Kapeliela always deferred his claims and didn't give him any explanation as to why he was not able to be recognized. He stated that based on the rules and procedures that he has read, he feels that he has been wrongfully discriminated by Kapeliela. He said that he will be bringing charges against Kapeliela and also against another claimant. He hopes that this council will not let this happen again. He said that he has gotten into a disagreement with council member Greenwood and wanted the council to know that he had a conflict with her in regards to genealogy.

Greenwood stated that the conflict that Kuhea was talking about has nothing to do with the issue at hand. Diamond said that the council cannot address the issue that Kuhea was talking about because it was not on the agenda.

McKeague asked what the process of review is for descendency claims.

Chang stated that the department has an application on their website for anyone to download and submit to the department for review with relevant documents that will verify their claim.

Kuhea said that Kapeliela discriminated against a lot of Hawaiians and that he was only the first person to come forward about it. Diamond explained that the council cannot discuss this matter now but can be put on the agenda at another time.

**B. Informational presentation by Cultural Surveys Hawaii, Inc. regarding Burial Site 50-80-14-6819, former Waikiki 3 Theatre Parcel.**

Doug Borthwick gave a brief summary of the project. The project went through demolition. Following demolition, Cultural Surveys Hawaii did an inventory survey where a human burial was encountered. The work in the area stopped at that time and SHPD staff made a site visit and suggested that preservation in place be implemented for this burial. The landowners have taken that suggestion into consideration and have made some adjustments to their plan to accommodate preservation in place. They have considered making a landscaped area for this burial. At this time, this is an update to the council on the progress of this project and to let the council know that a burial treatment plan will be provided at the next meeting which will hopefully address any questions you may have.

(Kanemoto left the meeting at 11:07 am)

Ehrhorn asked what type of project this was. Borthwick stated that this is a two-story retail commercial space.

Kaleikini asked if the landowners were going to build over the area where the burial would be preserved. Borthwick said that the landowners are looking to make a specific landscaping area to decrease traffic.

Kuhea noticed that they were using cinder blocks in the area and wanted to know why it was laid out that way. Borthwick said that it was part of the monitoring plan to create a solid foundation instead of putting posts in the ground. The burial is about 4-feet down and there's about 3-feet of fill above the ground.

Rason stated that when you use fertilizer in landscaped areas where 'iwi kupuna are, it can actually harm the 'iwi. He sees this sort of thing happening all the time and would like to forewarn everyone of the possibility that it could harm the 'iwi when used in areas over burials.

Kini asked if anyone could confirm or comment on the statements regarding the use of fertilizer over burials. Monahan stated that this argument makes sense and that it would be a worthwhile discussion to consider using rocks as opposed to landscaping.

Rasor said that you could put a plastic liner to prevent the fertilizer from harming the 'iwi. Diamond suggested that there have been times where they used a vault that has sand in it and they sealed the top so that if you were to put landscaping on top of it, any chemicals used to maintain it would not harm the 'iwi.

Kini asked if fresh water would disintegrate bones. Monahan said that you either want to keep them dry or keep them wet but it's not in their best interest to alternate back and forth between the two.

### **C. Section 106 and NAGPRA issues**

McKeague stated that the Chair wanted to facilitate a discussion that would clarify the process of how the council handles Section 106/NAGPRA issues.

Greenwood said that the person the letters are addressed to are accountable for responding and that usually is the Chair. However, by the time the letter actually reaches the whole council, the council's opportunity to comment has already lapsed.

Diamond commented that there are a few challenges with these letters that come in for comment. The first is the substance of the issue and second is the process. In the past, there was a task force that was set up within the council to review the letters and they would come back to the council to make any recommendations or report their findings. Diamond believes that it is very important for the council to be involved with the Section 106/NAGPRA issues. He recommended that the correspondence that comes in relating to Section 106/NAGPRA should be distributed to all council members.

Tiffany stated that many times issues come up and the council doesn't know about it. It is not an efficient way of doing things.

McKeague suggested that maybe a task force or subcommittee should be established to review these important Section 106/NAGPRA consultation issues that come before the council.

(Tape 1, Side B)

Brown suggested that the council sign a memorandum of agreement with the military agencies in regards to consultation because at the state level we only can comment and/or make recommendations because we are talking about federal lands.

Ehrhorn commented that he believes that Section 106 goes beyond just federal lands because if the State of Hawaii builds a highway with federal money that could be subject to Section 106.

Diamond asked how the council can establish a sub-committee, within the confines of the Sunshine Law, to review these issues.

Ehrhorn suggested that the council assign a specific task to at least two people but less than a quorum.

Diamond stated that there is a need for the council to be involved with this process in order for families to come forward.

Greenwood said that she remembers military representatives coming to past Burial Council meetings and describing, very nonchalantly, that they have 'iwi kupuna in their

file cabinets and desks. Greenwood expressed her concern that the 'iwi kupuna were not being properly taken care of.

Diamond explained that the consultation process is very complicated because there are many different types of descendants. Diamond suggested that we look to the Federal government to help get funds to build up the Department's staff.

Ehrhorn said that he remembers that there has been a lot of resistance in the past.

McKeague expressed that he would like to be involved with the review.

Tiffany commented that there is a need for the council to meet every month because the council is involved with many important issues that need to be addressed in a timely manner.

Ehrhorn also commented that the council should meet every month regardless if there are any items to vote on. Ehrhorn went to say that the council did not meet 9 months last year and we didn't get to really accomplish much because of it. He said that the reason the council did not meet last year was because the council didn't meet the landowner and regional representative ratio as required under the law.

**D. Report and Discussion on 2006 proposed legislation for changes to Chapter 6E, HRS and Chapter 300, HAR**

McKeague stated that the Chair wanted to update the council about the meeting that the Chairs and Vice-Chairs of the Island Burial Councils across the islands had in November. Basically, there were changes suggested by the department but after the discussion between the different council Chairs and Vice-Chairs, there are no changes that are going to be proposed in the 2006 Legislation. There was a discussion about potential weaknesses and open doors for challenges that could be brought against the council and after this discussion it was decided that no changes should be made at this time.

Kini asked about the ideas or some of the proposed changes that were suggested at this meeting.

McKeague said that one of the issues discussed was recognizing and maintaining a list of appropriate Hawaiian organizations. Another suggestion was making some other text changes in the rules.

Tiffany shared her thoughts about the subject. She said that at this morning's sunrise, this very subject was on her mind.

Kuheha expressed his opinion regarding the process of being recognized. He stated that the problem starts with the publication in the newspaper. He said that if people have the paperwork to prove that they have a connection to that land then they should be the ones who make the decisions.

Greenwood said that the council is responsible for recognizing and maintaining a list of appropriate Hawaiian organizations but she doesn't know these organizations. She asked what genealogy had to do with recognizing an appropriate Hawaiian organization. She said that there should be a more clear way of understanding how these groups get recognized.

McKeague stated that unfortunately this is a cultural issue which is confined in a legal context. McKeague asked the council how they would deal with these issues within the legal constraint put upon them.

Kruse asked if the organizations should have a list of the burials.

Greenwood stated that the OIBC should have the list of burials but the council is responsible for having a list of appropriate organizations. Under Section 106/NAGPRA, Greenwood feels that they just want to get rid of it.

Rasor stated that the primary responsibility is to the 'iwi, and the descendants come after. He said that the list of appropriate Hawaiian organizations is something that the council has to decide if you accept them or not. He said that they should not be at the top of the list of priorities. He went on to say that lineal descendants should have first priority and then cultural descendants should be contacted after that.

Kuheha expressed his concern about recognizing an appropriate Hawaiian organization.

Diamond explained how the process works on a state level and a federal level. He said that families use their genealogy to show their cultural affiliation with the area. He believes that the State has an advantage because it is clearer to understand the process of lineal and cultural descendants than at the federal level.

#### **E. Discussion on Department's collection of 'iwi and plans to re-inter.**

Kini stated that he asked the Chair to put this on the agenda because he wanted the council to be up to speed of what is in the Department's current collection. He said that he understands that the Department's collection is rather large and would like the council to make a site visit to see the conditions of the room they are being held in. He said that this site visit is not meant to be intrusive to the 'iwi kupuna but to see what the council could help the department with. Kini asked the department what their future plans are to reinter these 'iwi kupuna in their collection.

Chang stated that the Department has future plans to reinter 'iwi kupuna that are in their custody. The department is currently working with recognized descendants from Kualoa to reinter about 32 'iwi kupuna. There have been a couple meetings already with the descendants, landowner representatives, and OIBC regional representatives from that area. The descendants have asked that reburial occur in February and the department is working with all parties involved to make that happen. The Department recognizes that there are many 'iwi kupuna that need to be reinterred and because the Department has gone through many changes in staff, it has taken longer to accomplish this. Chang said that she has already facilitated discussions with different landowners to set up burial preserves to get these 'iwi kupuna back in the ground.

Kruse commented that she has been thinking of ways to get legislation to set up areas in different districts to rebury these 'iwi kupuna because she has worked in that department and knows that some of the 'iwi kupuna have been there a very long time.

Tiffany asked for a status of the 'iwi kupuna currently held in the department's curation facility.

Chang said that she is currently working on gathering all the files and making something available soon.

Keliikoa expressed his concern about asking permission from the descendants whether they can do a site visit. He asked if there were any protocols or procedures in place where they would ask the descendants first for permission to visit and not just show up without their knowledge.

Chang said that it wouldn't be possible to contact all descendants because the 'iwi kupuna in the department's collection are inadvertent discoveries and not all descendants have been identified yet.

(Tape 2, Side A)

(Kanemoto returned to the meeting at 11:57 am)

Kini stated that he has made many site visits over his time that he served on the council and has been welcomed to visit the 'iwi to say a prayer and apologies. His intent for this site visit is not to be intrusive but to get an overview of the conditions.

Ehrhorn expressed his concern about the Department's collection because when he first joined the council years ago, he saw the curation facility and there were a lot of 'iwi kupuna. He asked the Department if the size of that collection is bigger or smaller than when he first visited the room. He also asked the Department if there was a list that the council could look at that would give them a general idea of what is in the Department's collection.

Chang said that she couldn't really answer Ehrhorn's first question because she was not working with the department when he first saw the department's collection. Chang said, in regards to Ehrhorn's second question, she has been working with the former staffs' files to gather all the information and make a more current list. However, this will take some time and asks that the council be patient while the department sorts through all the old files.

Kanemoto stated that the council is only responsible for Native Hawaiian remains over 50 years old.

Kuheha expressed his concern with this site visit.

McKeague acknowledged that the Department is trying to work towards getting these 'iwi kupuna reburied.

Vice-Chair McKeague called for a recess at 12:05 pm. The meeting resumed at 12:20 pm.

McKeague stated that he understands the public's concern about a site visit and from his point of view, he would like to ho'okipa to announce himself to the 'iwi kupuna because it is a kuleana that he took when he came on to the council.

**Motion for the Oahu Island Burial Council to conduct a site visit of the 'iwi collection with the Burial Sites Program for the purpose of providing council members the opportunity to review the management and treatment of the 'iwi collection and make recommendations to the department in accordance to §92-2.5, HAR, and §6E, HRS. (Kini/Diamond)**

**VOTE: ALL IN FAVOR. Motion carries.**

Kanemoto advised the council that they need to designate council members to attend this site visit in this meeting and that it needs to be at least 2 people but no more than a quorum.

The council agreed who will be attending the site visit and Yanos read into the record the names that were designated: Ehrhorn, Tiffany, Kruse, Kini, Greenwood, Keliikoa, and McKeague.

Kuhea expressed his concern about the site visit that the OIBC members will be attending. He stated that the council should not be making recommendations of reinterment sites. He expressed his concern of inspecting the 'iwi kupuna that are in the department's collection.

McKeague clarified that the site visit is being conducted to ensure that the 'iwi in the department's collection are in good condition and to make recommendations to the department of any appropriate treatment. McKeague continued to say that he would like to introduce himself to the 'iwi kupuna and say a pule to acknowledge their presence and to convey that he would like to help in whatever way possible.

Kini stated that he did not want this site visit to be an intrusive inspection but to make sure the conditions of the room is properly managed.

(Abad enters at 12:35 pm)

McKeague welcomed and introduced Carolyn "Kehau" Abad, who has recently been appointed to the council to fill a landowner representative seat. McKeague further explained the justification of a site visit to the 'iwi kupuna inventory.

Kaleikini expressed her opinion that the council should not have a site visit and that an inventory should be enough for the council.

Greenwood said that it is part of the council's responsibility to care for the 'iwi kupuna. Greenwood went on to say that the past administration did not do anything but we're hoping that the current administration will be able to rebury any remains that are in the

Department's current collection. The council will be able to help the Department if we can visually see what needs to be done.

McKeague felt it was important to recognize the current staff's effort to correct the past staff's mismanagement of the 'iwi kupuna. The council understands that this is a big task and would like to be more involved.

Kuheha asked Kanemoto if the council members would be violating his native rights by attending this site visit. Kanemoto said no.

Chang stated that the 'iwi kupuna in the State's curation facility are not all Native Hawaiian. The 'iwi kupuna in the State's facility are mostly inadvertents and therefore, it is the State's kuleana to protect these kupuna until they can be reburied.

Rasor said that it is part of the council's responsibility to care for the 'iwi.

McKeague asked the Department if there are periodic check-ups to the room to ensure their safety.

Chang said that the Department does check on the room on a regular basis, but does not go into the room and do intrusive inspections. Chang stated that the boxes/bags should be opened when they are being prepared for reburial and not to be disturbed again.

Kanemoto asked the Department if ethnicity had been determined for those remains.

Chang stated that ethnicity has been determined for some of the 'iwi but for some of them, ethnicity could not be determined.

Abad shared her feelings on the matter. Abad commented that she believes that the site visit seems to be intended to make sure the conditions of the room are good. She said that it is encouraging to know that the inventory list is being created and that the Department is taking the step in the right direction.

(Tape 2, Side B)

## **F. Discussion on Council Direction, Goals and Objectives**

McKeague said that the Chair wanted to discuss a few things regarding this subject and he would like to suggest that the council defer this matter until another time.

Diamond suggested that the council find out what the budget is for the Burial Sites Program. He stated that every time there is a cut in the budget, the Burial Sites Program is the first to go because they are in exempt positions. He said that there needs to be a core staff with civil service standing in order for this program to continue. Diamond acknowledges that it is going to take some time for this to come into play.

Kini stated that the economy is looking pretty strong and secure right now, but these cycles go up and down. Kini went on to say that it is inevitable that when it comes time to cutting the budget, the Burial Sites Program will be the first to go.

The council decided to defer this agenda item.

## **VI. INADVERTENT DISCOVERY**

Chang referred the members to the monthly summary report of inadvertent discoveries of human skeletal remains, which was previously provided to the members in their packets. She read into the record the contents of her January 4, 2006 memo to the council.

Abad expressed her opinion that there should be higher standards implemented when archaeologists are assessing inventory surveys. Abad addressed the issue of reasonable belief in regards to the burial containing Hawaiian remains or non-Hawaiian remains. Abad suggested that we error on the side of caution and say it is Hawaiian, not only in identifying burials but possible burials. She went on to say that if you were to come across sand dunes, there is a high probability that there are burials.

## **VII. INFORMATION**

### **A. October & November 2005 U.S. Army Letters**

McKeague stated that this agenda item was previously discussed during the council's discussion of Section 106/NAGPRA. He restated that the council had informally assigned a sub-committee to review these letters.

(Tape 3, Side A)

Diamond explained what the council had done in the past. He said that a committee was formed and they reviewed the letters and report back to the council their findings and then the council would make recommendations. Kanemoto explained the process for the council to handle this.

### **B. U.S. Nuclear Regulatory Commission letter dated December 15, 2005 regarding the construction of a commercial irradiator at the Honolulu International Airport**

Diamond expressed his concern regarding the irradiator at the Honolulu International Airport. One of the concerns he mentions is the security aspect and what would happen with the wasted fill that comes out of this project.

Kanemoto stated that the wasted fill does not fall under the council's purview. Ehrhorn said that he agreed with Diamond's concern. Kanemoto suggested that the council re-open Agenda Item V, Section C to vote on anything.

**Motion to re-open Agenda Item V, Section C and designate Alice Greenwood and Chuck Ehrhorn to screen the review of Section 106/NAGPRA Correspondence (Diamond/Greenwood)**

**VOTE: ALL IN FAVOR. Motion carries.**

## **VIII. ADJOURNMENT**

The meeting adjourned at 1:55 pm.

Submitted Respectfully,

Susan P. Yanos, SHPD Secretary and  
Piilani Chang, SHPD Oahu Cultural Historian